

**New Mexico State University**

**2014**

**Annual Security Report**

**NMSU Carlsbad**

**Release Date: September 30, 2014**

## **INTRODUCTION**

This report contains information regarding safety and security programs, policies, and procedures in place at New Mexico State University's Carlsbad campus. It complies with the requirements established by 20 USC 1092, also known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, as well as the requirements imposed by the Violence Against Women Act (VAWA). Select crime statistics from 2011 through 2013 required by this Act are included, but a more comprehensive listing of crime and traffic crash statistics from 1989 through 2013 is available on-line at [www.nmsupolice.com](http://www.nmsupolice.com). The NMSU Police Department is the agency with primary responsibility for the collection of data for this report, though it relies on other departments and agencies for assistance.

For ease in locating information, this report has been separated into sections. If you have any difficulty locating information in this report, or if you need this report in a different format, please contact the NMSU Carlsbad Student Services office at (575) 234-9222 for assistance.

2014 Annual Safety Report for the Carlsbad campus

# **SECTION 1 - OVERVIEW**

## **ABOUT THE UNIVERSITY**

Since 1950, New Mexico State University Carlsbad has been serving Carlsbad, Eddy County and southeast New Mexico with affordable education and a community minded approach in preparing students for success in their careers. We take pride in our diverse group of students, faculty and staff members. With our variety of associate degrees and certificates, NMSU Carlsbad is here to help you pursue your educational goals. From business to nursing and welding to history, we'll assist you in professional development, transfer to a 4-year university with an Associate degree, personal enrichment, distance/online learning, and adult basic education—all at an inexpensive cost and convenient schedule that fits into your life.

For high-quality, affordable higher education provided by a faculty and staff that really care about you and your success come talk to us. We're the oldest community college in New Mexico with the newest technology and approach to higher education.

NMSU Carlsbad – Start here, Go Anywhere!

## **SAFETY – EVERYONE'S BUSINESS**

A campus community relies on a peaceful, safe, and secure environment. Preserving this environment is a responsibility everyone on campus shares. Members of the community are expected to be aware of policies and procedures of the university and to promptly report any crime or suspicious activity.

Everyone needs to also be conscious of personal safety. While the NMSU Police Department and other campus safety entities work to keep the campus safe, they cannot do so when people intentionally choose to engage in risky activity. Everyone is encouraged to be aware of their surroundings and avoid suspicious or dangerous situations whenever possible. Campus community members are also encouraged to follow common safety practices that include locking doors and windows, using seatbelts, and avoiding the over-consumption of alcohol.

## **SECURITY OF BUILDINGS AND FACILITIES**

The NMSU Carlsbad campus is relatively safe compared to other universities and cities its size. However, that does not mean it is crime free. Burglary and thefts occur more frequently than other crimes on campus, and students and employees are encouraged to always lock up valuables and not leave them unattended, as this contributes to a large portion of the thefts.

Most buildings at NMSU Carlsbad are open to the public during normal business hours (some as late as 10 pm for certain evening classes), including some on weekends. Administrative buildings are open

Monday through Friday from 8 am to 5 pm. The libraries and certain buildings with computer labs post their hours of operation, with schedules that change throughout the school year to meet the needs of students and staff. However, buildings are closed when not in use.

The Office of Facilities and Services works to help maintain security of the campus by, among other efforts, locking up academic buildings at the end of the night, replacing burned out lights, trimming vegetation that blocks lights, and conducting annual tours of the campus to develop a prioritized list of projects for improvements. The custodians who work for the Office of Facilities and Services also serve as additional observers and reporters of problems around the campus.

## **SECTION 2 – EMERGENCIES AND INCIDENTS**

### **TIMELY WARNINGS AND ALERTS**

When there are major incidents or emergencies that affect a large number of people and that present an immediate threat to health or safety, NMSU Carlsbad will issue advisories, alerts, or warnings as appropriate and as long as doing so will not impede the public safety response or further endanger lives. Advisories that are not involving an immediate danger may be sent out via e-mail or news media, while those involving immediate danger are usually sent out using the NMSU Emergency Notification System (ENS). Participation in the ENS is mandatory for all students and employees at NMSU, with e-mail being the default notification. In order to receive text messages and phone calls, the student or employee must register the appropriate contact information at <http://emergency.nmsu.edu>. An emergency message will generally contain the following information:

**WHAT:** This is a brief description of what is taking place. For example, it may indicate there is a tornado warning, a fire, a bomb threat, or a person shooting. If the message is not an emergency (e.g., a test message), it will be indicated here.

**WHERE:** This provides information about where the emergency is taking place. It will be as specific as the particular situation allows, but should always include which campus(es) is being affected.

**ACTION:** This is where recipients will find specific guidance on what to do as a result of the emergency (e.g., be on the lookout, shelter in place, evacuate, etc.). In order to make the system work as fast as possible, these messages are necessarily kept very brief, and additional information will usually be made available on the NMSU website homepage. (NOTE: On-scene direction from public safety personnel, media releases, update e-mails, and other forms of communication may also be used as appropriate. Follow the most current and specific guidance provided.)

**MORE INFO:** This section will explain where to go to get more detailed information regarding the emergency. This will usually include the university's website ([www.nmsu.edu](http://www.nmsu.edu)), but depending on the nature of the incident, other sources may also be provided.

More information is also available at <http://nmsu.edu/emergencyplanning/>. The final decision on whether to issue one of the above notices, and the information contained therein, rests with the NMSU Carlsbad President. The President (or his designee) may make the decision not to issue a notice if the situation is deemed not to warrant one, or if doing so might hamper the ability of public safety personnel to respond to and contain the incident.

The campus has also asked outside law enforcement agencies to notify NMSU Carlsbad authorities of incidents that may warrant warnings to the campus community. However, this is not a guarantee these outside agencies will do so in every incident, nor in a timely manner. As a result, anyone believing an alert or warning is needed in a particular instance should contact the Presidents office.

## **EMERGENCY ACTIONS**

If you are involved in a dangerous or life-threatening emergency, take the following steps immediately:

- Get to a safe place as quickly as possible. Generally, the further you can get away from the scene, the safer you will likely be.
- Report the emergency by calling 911. Say, “This is an **EMERGENCY**”, give your **LOCATION**, and briefly tell **WHAT** is happening.
- Notify others of the danger so they can also stay away.
- Monitor the situation to see if it gets worse or if circumstances (like wind direction) change. Notify the emergency services dispatcher (911 operators) of the changes.

All students and employees are also encouraged to prepare in advance for emergencies, whether from natural disasters (such as floods, tornados, earthquakes, extreme heat, lightning, disease outbreak, etc.) or manmade incidents (including traffic crashes, hazardous chemical releases, downed electrical lines, criminal activity, terrorism, arson, etc.). The NMSU Police Department has prepared a “Quick Flip Guide to Emergencies” that can be downloaded from the internet ([www.nmsupolice.com](http://www.nmsupolice.com)) and assembled. It is a good starting point for both incident specific guidelines, as well as general guidelines. Additional information is also available through the Environmental Health and Safety Office website at <http://www.nmsu.edu/~safety/>. Under the “Emergency Management” tab on the left is a wealth of information, including the NMSU All Hazards Emergency Operations Plan, communicable disease outbreak guidelines, laboratory safety, and links to a number of other agencies.

NMSU Carlsbad conducts fire and evacuation drills in buildings each fall semester. However, students and employees should not rely on these being the only times they think about emergency evacuations. Anytime a person enters a building, they should also look to see what other avenues of emergency escape exist, whether through additional doors, designated fire exits, or even windows. Students and employees should also know where the designated escape routes and exits are in those buildings they live and/or work in, as well as any potential specific challenges (such as stairs might present for a person in a wheelchair). Newer buildings on campus also have designated “safe haven” areas where a person may call for assistance and wait for fire personnel. However, these areas are not a guarantee, and the person should continually evaluate the conditions and decide whether or not it is still safe to remain in that area.

## **FIRE STATISTICS AND FIRE SAFETY REPORT**

Statistics on fires and fire responses (other than arson), as well as the Fire Log, are managed by the NMSU Fire and Emergency Services Department. This Department also publishes the Annual Fire Safety Report, which is available online at [http://www.fire.nmsu.edu/statistical\\_data.html](http://www.fire.nmsu.edu/statistical_data.html).

## **MISSING PERSON REPORTS**

Any report of a missing person is immediately investigated by the NMSU Police Department. There is no 24-hour waiting period, and attempts to locate the person will include contacting surrounding law enforcement agencies, notifying the missing person's designated contact(s), notifying parents or guardians if the missing person is less than 18 years of age, contacting known family members and friends, and posting of bulletins and news releases. In addition, the Police Department will notify appropriate university officials that a person is missing.

When students enroll at NMSU Carlsbad, they are asked to provide Emergency Contact Information, and this confidential information is used by the Police Department in contacting family and/or friends. One or more of these people may be designated as a person to contact solely for purposes of trying to find a student should they be missing. The same person, or others, may also be designated for contact in other emergencies involving the student. All students are strongly encouraged to designate and provide the names and contact information of the people they would like contacted under these circumstances. This may be done at the website <http://emergency.nmsu.edu>. For any student who is a minor (under the age of 18) and has not been emancipated by a court, police officials are required to notify his/her parent(s) or guardian(s), in addition to any emergency contacts listed by the student.

Any university employee who, through the course of their employment, is informed that a person is missing from campus is required to immediately notify the NMSU Police Department. If there is information that an abduction has just taken place, the employee should call 911. Otherwise, the person should call 234-9200 and provide the information to the person responding.

## **IF YOU ARE THE VICTIM OF A CRIME . . .**

If you are the victim of a crime while at NMSU Carlsbad, or experience a fire or medical emergency, report it immediately to the Business Office. For all types of emergency, call 911. For non-emergencies, call (575) 234-9200. When you call, give your name, the location you are calling from, a brief description of what occurred, and whether the person who committed the crime is still in the area. Prompt reporting and specific information will increase the chances of solving your case. A university representative will be dispatched to meet with you and obtain all of the necessary information. If evidence from the crime is still intact, please do not move or destroy it. This is especially important in sexual assault cases. Showering, changing clothes, or grooming can destroy vital evidence.

Many students worry about reporting crimes to the police because they do not want to testify in a trial. Victims are nevertheless encouraged to at least contact the NMSU Carlsbad Business Office so they can be made aware of other services (counseling services, medical treatment, etc.) that might lessen the trauma of the incident. If the victim does not wish to pursue criminal charges, their wishes will be respected.

Students who are victims of crimes may also pursue recourse through the NMSU Student Judicial System. While this is not a substitute for the criminal justice system, it affords students the opportunity to have their side heard in a less formal environment. If an accused student is found to have violated the Student Code of Conduct by engaging in forcible or non-forcible sex offenses, he or she may be subject to disciplinary action. The level of disciplinary action administered depends on the specific circumstances of the case, but can range from warnings and attendance at mandatory programs up to and including expulsion from NMSU. Both the victim and accused will be afforded the same opportunities within the student judicial process, including the ability to have others present during disciplinary proceedings, and both shall be informed of the outcome of any campus disciplinary proceedings alleging sexual assault. Students interested in this course of action may call the Student Services Office at 234-9220, the office responsible for upholding the Student Code of Conduct. As always, students may also contact the Police Department for assistance and guidance.

Any NMSU officials who are approached by a person who has been the victim of a sexual assault or other crime on the NMSU campus are required to assist the person in notifying the police department.

### **SEXUAL ASSAULT, HARASSMENT, AND STALKING**

The issue of sexual assault and other sexual misconduct is at the forefront of universities nationwide. NMSU specifically prohibits sexual misconduct and will assist victims in seeking counseling (available through the Counseling Center or several off-campus organizations), obtaining medical treatment (available through the Student Health Center and local hospitals), changing room assignments, making academic changes, and in any other way possible, including criminal prosecution through the District Attorney's Office (if the victim so desires). Students, faculty and staff, and visitors are reminded that they can contact the NMSU Police Department for assistance at any time, and do not have to file an official police report in order to be helped. If a report is filed with the NMSU Police Department, it will be fully investigated with the findings being referred to the District Attorney's Office for prosecutorial decisions.

New Mexico State University prohibits sexual misconduct by students, as reflected in the following excerpt from the Student Handbook. In this policy, sexual misconduct includes the following:

- Forced Sexual Contact - Any harmful, insulting or non-consensual verbal or physical contact of a sexual nature with another person (including touching, fondling, exposure, disrobing, etc.) that is accomplished toward another without his/her consent including any such act accomplished by means of actual or implied force, threat, coercion, or helplessness. Forcing or intimidating a person to touch another's intimate parts shall also constitute sexual contact.
- Forced Sexual Penetration - Intercourse (vaginal penetration); sodomy (anal penetration); oral copulation (oral-genital contact); or penetration with any object (including a finger), by the use of force, threats, coercion, or by taking advantage of a victim's helplessness.

***From: <http://deanofstudents.nmsu.edu/student-handbook/2-discipline-related-policies-and-procedures/sexual-misconduct-policy.html>:***

*A student charged with sexual misconduct, including acquaintance or date rape, can be prosecuted under New Mexico criminal statutes and disciplined under the Student Code of Conduct. Even if the law enforcement authorities choose not to prosecute, the University can pursue disciplinary action.*

*A violation occurs when there is participation in any kind of sexual misconduct by a student individually or in concert with others. Since the University hopes to educate students in order to prevent violations, students should understand that:*

- A. Forced sexual penetration or other unwanted forced sexual contact is defined as sexual misconduct whether the assailant is a stranger or an acquaintance of the victim.*
- B. Alcohol and/or drug use, intoxication, or any impairment of the accused, does not absolve responsibility for sexual misconduct.*
- C. In situations where the victim is incapable of giving consent, or is unable to resist sexual advances due to alcohol/drug use or other impairments, the accused will be held responsible for sexual misconduct.*
- D. Force or coercion is defined as:
  - 1. The use of physical force or physical violence.*
  - 2. The use of threats, including but not limited to physical threats, abduction, extortion or retaliation directed against the victim or another when the victim believes that there is an ability to execute such threats.*
  - 3. The use of verbal comments or non-verbal behaviors/gestures to intimidate the victim or another when the victim believes that there is a present ability to execute such threats.**
- E. Threat is defined as an expression of intention to hurt, destroy, or punish the victim or another.*

*Where there is cause to believe that the University regulations prohibiting sexual misconduct have been violated, the University will initiate disciplinary action. Accusations of sexual misconduct will be investigated by the Coordinator of Student Judicial Services according to the Code of Conduct. If evidence is available to indicate that a student is guilty of sexual misconduct, or if guilt is admitted, the penalty for such misconduct may be as much as disciplinary suspension, dismissal or expulsion.*

Sexual misconduct often overlaps with crimes of sexual assault, sexual harassment, stalking, dating violence and domestic violence. As a result, sexual misconduct cases may be handled both by New Mexico State University for policy violations, as well as by law enforcement for criminal violations. Each system has its own processes and standards

In an effort to reduce the risk of sexual misconduct as well as the crimes of rape, sexual assault, sexual harassment, stalking, dating violence and domestic violence occurring among its students, the University utilizes a range of campaigns, strategies and initiatives to provide awareness, educational, risk reduction and prevention programming. Educational programs are offered to raise awareness for all incoming students and employees, and are conducted during new student and new employee orientation and

throughout an incoming student's first semester. These programs and others offered throughout the year include strong messages regarding not just awareness, but also primary prevention (including normative messaging, environmental management and bystander intervention), and discuss institutional policies on sexual misconduct as well as the State of New Mexico definitions of domestic violence, sexual assault, stalking and consent in reference to sexual activity. Bystander engagement is encouraged through safe and positive intervention techniques and by empowering third-party intervention and prevention such as calling for help, identifying allies, and/or creating distractions.

Programs also offer information on risk reduction that strives to empower victims, teaches them how to recognize warning signals and how to avoid potential attacks, and to do so without victim-blaming approaches. Throughout the year, ongoing awareness and prevention campaigns are directed to students and employees, including faculty, often taking the form of presentations in University 150 classes, information booths at community events, emails, regularly scheduled crime prevention and personal protection classes, and a variety of programs offered through WAVE.

### **Measures taken by NMSU**

In the event that sexual misconduct, gender-based violence or the crimes of sexual assault, stalking, dating violence or domestic violence occur, the University takes the matter very seriously. The University employs interim protection measures such as interim suspension and/or no contact orders in any case where a student's behavior represents a risk of violence, threat, pattern or predation. If a student is accused of sexual misconduct, other gender-based violence or the crimes of rape, sexual assault, sexual harassment, stalking, dating violence or domestic violence, he/she is subject to action in accordance with the NMSU Student Code of Conduct in the student handbook. A student wishing to officially report such an incident may do so by contacting the Title IX Coordinator, Gerard Nevarez at (575) 646-3635. The student may also report to police if they wish to pursue criminal charges. NMSU employees with knowledge about sexual misconduct or gender-based violence or the crimes of rape, sexual assault, sexual harassment, stalking, dating violence or domestic violence are encouraged to report it immediately.

If you are the victim of sexual misconduct, gender-based violence or the crimes of rape, acquaintance rape, sexual assault, sexual harassment, stalking, dating violence or domestic violence, some or all of these safety suggestions may guide you after an incident has occurred:

1. Go to a safe place and speak with someone you trust. Tell this person what happened. If there is any immediate danger, contact the NMSU Police Department if you are on campus or call 911 if you are off campus.
2. Consider securing immediate professional support (e.g.: counseling, victim advocacy, medical services, etc.) to assist you in the crisis.
3. If you are on campus during regular business hours, you may go to the NMSU Carlsbad Counseling Center as well as to [Mike Cleary 234-9220] for support and guidance. These are both confidential resources.
4. For your safety and well-being, immediate medical attention is encouraged. Further, being examined as soon as possible, ideally within 24 hours, is important in the case of rape or sexual assault. The hospital will arrange for a specific medical examination at no charge. To preserve evidence, it is recommended that you do not bathe, shower, douche, eat, drink, smoke, brush your teeth, urinate, defecate or change clothes before receiving medical attention. Even if you have

already taken any of these actions, you are still encouraged to have prompt medical care, and evidence may still be recoverable. Typically, if police are involved or will be involved, they will obtain evidence from the scene, and it is best to leave things undisturbed until their arrival. They will gather bedding, linens or unlaundered clothing and any other pertinent articles that may be used for evidence. It is best to allow police to secure items in evidence containers, but if you are involved in transmission of items of evidence, such as to the hospital, secure them in a clean **paper** bag or clean sheet, to avoid contamination. If you have physical injuries, photograph or have them photographed, with a date stamp on the photo. Record the names of any witnesses, and their contact information. This information may be helpful to the proof of a crime, to obtain an order of protection or to offer proof of a campus policy violation. Try to memorize details (physical description, names, license plate number, car description,), or even better, write notes to remind you of details, if you have time and the ability to do so. If you obtain external orders of protection (e.g. restraining orders, injunctions, protection from abuse), please notify the NMSU Police Department or the campus Title IX Coordinator so that those orders are enforceable on campus.

5. Even after the immediate crisis has passed, consider seeking support from the counseling office, and the Student Services Office.
6. Contact the NMSU Carlsbad Counseling Office if you need assistance with concerns, such as no-contact orders or other protective measures. The [insert contact] will also assist in any needed advocacy for students who wish to obtain protective or restraining orders from local authorities. The University is able to offer reasonable academic accommodations, escorts, no contact orders, counseling services access and other supports and resources as needed by a victim.

For offenses including sexual misconduct or other gender based violence, which typically include the crimes of domestic violence, dating violence, sexual harassment, sexual misconduct and stalking, sanctions against student offenders range from warnings through expulsion. Serious and violent incidents and acts of sexual offenses by employees usually result in suspension, expulsion or termination of employment.

Procedurally, when the New Mexico State University receives a report of sexual misconduct, gender-based violence, or other sex or gender discrimination the campus Title IX Coordinator is notified. If the victim wishes to access local community agencies and/or law enforcement for support, the University will assist the victim in making these contacts. The Title IX Coordinator will offer assistance to victims in the form of interim or long-term measures such as opportunities for academic accommodations, changes in housing for the victim or the responding student, visa and immigration assistance, changes in working situations and other assistance as may be appropriate and available on campus or in the community (such as no contact orders, campus escorts, transportation assistance, targeted interventions, etc). If the victim so desires, they will be connected with a counselor on- or off-campus, as well as an on- or off-campus victim's advocate. No victim is required to take advantage of these services and resources, but the University provides them in the hopes of offering help and support without condition or qualification. A summary of rights, options, supports and procedures is provided to all victims, whether they are a student, employee, guest or visitor by the Title IX Coordinator (or designee).

When appropriate upon receipt of notice, the Title IX Coordinator will cause a prompt, fair and impartial process to be initiated, commencing with an investigation which may lead to the imposition of sanctions upon an individual found responsible, based upon a preponderance of evidence. (NOTE: Preponderance of evidence means that the hearing officer believes it is more likely than not that the incident occurred.) Procedures detailing the investigation and resolution processes of the University can

be found in the NMSU Policy Section 3.25 (contained below). The Coordinator is ultimately responsible to assure in all cases that the behavior is brought to an end, the University acts to reasonably prevent its recurrence and the effects on the victim and the community are remedied. The Coordinator is also responsible to assure that training is conducted annually for all advocates, investigators, hearing officers, panelists and appeals officers that encompasses a hearing process that protects the safety of victims and promotes accountability. Training will focus on sexual misconduct, domestic violence, dating violence, sexual assault, stalking, sexual harassment, retaliation and other behaviors that can be forms of sex or gender discrimination covered by Title IX and Clery Act. Training will help those decision-makers in the process to protect the safety of victims and to promote accountability for those who commit offenses.

In any complaint of sexual misconduct, sexual assault, stalking, dating violence, domestic violence or other sex or gender-based discrimination covered under the federal law, Title IX, the person bringing the accusation and the responding party are entitled to the same opportunities for a support person or advisor of their choice throughout the process, including any meeting, conference, hearing or other procedural action. Once complete, the parties will be informed, in writing, of the outcome, including the finding, the sanctions (if any) and the rationale therefore. Delivery of this outcome to the parties will occur without undue delay between notifications. All parties will be informed of the University's appeal processes, and their rights to exercise a request for appeal. Should any change in outcome occur prior to finalization, all parties will be timely informed in writing, and will be notified when the results of the resolution process become final.

### [NMSU Policies and Procedures](#)

Below is an excerpt of the NMSU Policy and procedures related to discrimination, sexual misconduct, and harassment. The complete NMSU Policies and Procedures can be found at <http://manual.nmsu.edu/policies-and-procedures/>.

### **NMSU Policy 3.25 Discrimination, Harassment and Sexual Misconduct on Campus**

A. New Mexico State University (NMSU) is dedicated to providing equal opportunities in areas of employment and academics without regard to age, ancestry, color, disability, gender identity, genetic information, national origin, race, religion, serious medical condition, sex, sexual orientation, spousal affiliation or protected veteran status as outlined in federal and state anti-discrimination statutes. As a federal contractor, NMSU's affirmative action program also supports this effort. The following is a listing of applicable federal and state laws:

1. Age Discrimination in Employment Act of 1967
2. Americans with Disabilities Act of 1990, as amended
3. Civil Rights Act of 1991
4. Title IX of the Education Amendments of 1972
5. Executive Order 11141
6. Executive Order 11246
7. Equal Pay Act of 1963
8. Pregnancy Discrimination Act
9. Section 504 of the Rehabilitation Act of 1973, as amended
10. Title VI & VII of the Civil Rights Act of 1964

11. Vietnam Era Veterans Readjustment Act
12. Genetic Information Non-discrimination Act of 2008
13. NM Human Rights Act, 1969
14. Campus SaVE Act, 2013

B. The Office of Institutional Equity (OIE) is designated as the office that receives and processes internal discrimination complaints within the NMSU system. The NMSU OIE website will include office address, location and contact information: <http://eeo.nmsu.edu/>

C. Title IX Notice:

1. NMSU does not discriminate on the basis of sex in education programs and activities; Title IX of the Education Amendments Act of 1972 is a federal law that states:

*"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."*

2. Title IX prohibits:

- a. Sexual misconduct (including sexual violence)
- b. Sex discrimination (gender bias)
- c. Sexual harassment
- d. Retaliation

3. Title IX applies to students, staff and faculty. Title IX requires reporting from "responsible employees" for which purposes of policy can be defined to include:

- a. Those with authority to address and remedy sex-based discrimination and harassment; and/or
- b. Those with responsibility to report sexual misconduct to a supervisor and OIE; and/or
- c. Those who a student would responsibly believe have such authority or obligation.

4. In cases involving harassing speech, assessing Title IX applicability to off-campus behavior will require a two-prong test:

- a. Does NMSU have control over the harasser (subject to our rules) and
- b. Does NMSU have control over the context of the harassment (on our property, in our programs, on land we lease or control, or at events we sponsor)

5. NMSU will reserve the option to take off-campus jurisdiction in cases involving sexual violence, sexual assault, or rape that involve students or employees.

6. The President will designate an administrator to serve as the NMSU Title IX Coordinator, whose duties will include overseeing all Title IX complaints and identifying and addressing systemic problems that arise during the review of such complaints.

7. Inquiries concerning the application of Title IX may be referred to the NMSU Title IX Coordinator or the Office of Civil Rights of the United States Department of Education. The NMSU OIE website will include the NMSU Title IX Coordinator's name, office address, telephone number, and e-mail address as well as the link to the Office for Civil Rights.

D. Campus Violence Elimination Act (Campus SaVE Act) Notice:

NMSU does not tolerate any sexual violence to include intimate partner violence which can be defined as any physical, sexual, or psychological harm against an individual by a current or former partner or spouse of the individual. Such sexual violence covers domestic violence, dating violence and stalking. The Campus SaVE Act complements and is a companion to Title IX and assists with the response to and prevention of sexual violence in higher education. The Act provides a framework for educational institutions to address incidents of sexual violence occurring on-campus, on public property within and adjacent to campus, and at non-campus properties like off-campus student organization housing, campus sponsored events and remote classrooms.

Specifically, the Campus SaVE Act outlines provisions for the following:

- a. **Transparency:** Students or employees reporting victimization will be assisted by campus authorities in reporting a crime to law enforcement and with obtaining or enforcement of no contact directives or restraining orders. Employees and students should be aware of bystander intervention which includes taking action to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, or stalking against another person. Individuals who make reports will be provided options and assistance in changing academic, living, transportation and working situations if requested and reasonably available. Further, a resource guide will be provided which includes information on counseling, health, local advocacy and legal service agencies. The range of any possible disciplinary actions or sanctions and procedures may be found in the *NMSU Student Code of Conduct* and/or the *NMSU Policy Manual*.
- b. **Accountability:** Provide a fair investigation and resolution of complaints. Additionally, both accuser and accused may be accompanied during proceedings by an advisor of their choice and both parties will receive written outcomes of disciplinary hearings at the same time.
- c. **Education:** Conduct initial and ongoing awareness programming for students and employees that addresses issues of primary prevention, definition of consent, reporting, bystander intervention and risk reduction.
- d. **Inquiries concerning the application of the Campus SaVE Act** may contact any of the following: Office of Institutional Equity (OIE) Executive Director; the NMSU Police Department Victim's Assistance Coordinator or the Dean of Students. The NMSU OIE website will include the most current names, office address, telephone number and e-mail address as well as the link to the Office for Civil Rights.

E. **Discrimination Policy:**

1. NMSU is committed to providing a place of work and learning free of discrimination and harassment on the basis of a person's age, ancestry, color, disability, gender identity, genetic information, national origin, race, religion, serious medical condition, sex, protected veteran status, sexual orientation, or spousal affiliation. Where a violation of policy is found to have occurred, NMSU will act to stop the conduct, to prevent its recurrence, to remedy its effects, and to discipline those responsible in accordance with the *NMSU Policy Manual* and/or *NMSU Student Code of Conduct*.
2. No employee or student, either in the workplace or in the academic environment, should be subjected to discrimination which includes inappropriate conduct. Even one incident may constitute a violation of policy. It is expected that students, faculty and staff will treat one another and campus visitors with respect.

3. It is against NMSU policy to discriminate in any aspect of employment or education, which includes, but is not limited to:

- a. hiring actions and terminations;
- b. compensation, assignment, or classification of employees;
- c. transfer, promotion, layoff, or recall of employees;
- d. job advertisements;
- e. recruitment actions;
- f. testing;
- g. grading;
- h. acceptance or participation in an academic program or activity;
- i. use of university facilities;
- j. training programs;
- k. benefits;
- l. retirement plans, and paid and unpaid leave programs;
- m. housing;
- n. academic accommodation;
- o. employment accommodation;
- p. financial aid;
- q. other terms and conditions of employment

4. Determining what constitutes discrimination under this policy will be accomplished on a case by case basis and depends upon the specific facts and the context in which the conduct occurs. Some conduct may be inappropriate, unprofessional, and/or subject to disciplinary action, but would not fall under the definition of discrimination. The specific action taken, if any, relating to a particular instance depends on the nature and the seriousness of the conduct that is reported.

5. Discriminatory practices include, but are not limited to:

- a. discrimination on the basis of a person's age, ancestry, color, disability, gender identity, genetic information, national origin, race, religion, sex, protected veteran status, sexual orientation, serious medical condition or spousal affiliation;
- b. retaliation against an individual for engaging in a protected activity such as filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices;
- c. Use of electronic mail or computer dissemination of offensive material relating to protected categories;
- d. Denying or interfering with an employee's or student's authorized reasonable accommodation based on disability or religion;
- e. employment or education decisions based on stereotypes or assumptions about the abilities, traits or performance of individuals based on age, ancestry, color, disability, gender identity, genetic information, national origin, protected veteran status, race, religion, serious medical condition, sex, sexual orientation, or spousal affiliation; and
- f. conduct that has the purpose or effect of substantially interfering with an individual's academic or work performance, or of creating an intimidating, hostile or offensive environment in which to work or learn.

#### F. Sex Discrimination/Sexual Harassment Policy:

1. NMSU is committed to providing a place of work and learning free of sexual misconduct which

includes sexual harassment and sexual violence. Engaging in sexual behavior that is inappropriate, unwanted and unsolicited is a violation of NMSU policy. Where sexual harassment is found to have occurred, NMSU will act to address the reported conduct, to prevent its recurrence, to remedy its effects, and to discipline those responsible in accordance with the *NMSU Policy Manual* and/or *NMSU Student Code of Conduct*.

2. No employee or student, either in the workplace or in the academic environment, should be subjected to unwelcome non-verbal, verbal or physical conduct that is of a sexual nature. Even one incident may constitute a violation of NMSU policy.

3. Determining what constitutes sexual harassment under this policy is dependent upon the specific facts and the context in which the conduct occurs. Some conduct may be unprofessional and/or subject to disciplinary action, but would not fall under the definition of sexual harassment. The specific action taken, if any, depends on the nature and the seriousness of the reported conduct and may include disciplinary processes.

4. Under this policy, unwelcome sexual advances, requests for sexual favors, and other non-verbal, verbal or physical conduct of a sexual or gender bias nature, constitute a violation of policy when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic status;
- Submission to or rejection of the conduct is used as a basis for academic or employment decisions or evaluations, or permission to participate in an activity;
- The conduct has the purpose or effect of substantially interfering with an individual's academic or work performance, or of creating an intimidating, hostile or offensive environment in which to work or learn.

5. Sexual harassment may take many forms, subtle and indirect, or blatant and overt.

6. Examples of unwelcome conduct of a sexual or sex related nature that may constitute a violation of policy may include, but are not limited to:

- Rape, sexual assault, sexual battery, sexual coercion, sexual exploitation, stalking, or other sexual violence;
- Sexual violence is a physical act perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. Additionally, a person may be unable to give consent due to an intellectual or other disability;
- Sexually explicit or gender related statements, comments, questions, jokes, innuendoes, anecdotes, or gestures;
- Uninvited touching, patting, hugging, or purposeful brushing against a person's body or other inappropriate touching of an individual's body;
- Remarks of a sexual nature about a person's clothing or body;
- Use of technology, electronic mail or computer dissemination of sexually oriented, sex-based communications or sexually explicit images;
- Sexual advances, whether or not they involve physical touching;
- Requests for sexual favors in exchange for actual or promised job or educational benefits, such as favorable reviews, salary increases, promotions, increased benefits, continued employment, grades, favorable assignments, letters of recommendation;
- Displaying sexually suggestive objects, pictures, magazines, cartoons, or screen savers; or
- Inquiries, remarks, or discussions about an individual's sexual experiences or activities and

other written or verbal references to sexual conduct.

G. Retaliation:

1. Retaliation against an individual who in good faith complains of alleged discrimination or sexual harassment or provides information in an investigation about behavior that may violate this policy is prohibited and may be grounds for discipline. Retaliation in violation of this policy may result in discipline up to and including termination and/or expulsion. Any employee or student bringing a discrimination or sexual harassment complaint in good faith or assisting in the investigation of such a complaint will not be adversely affected in terms and conditions of employment and/or academic standing, nor discriminated against, terminated, or expelled because of the complaint.

2. "Retaliation" may include, but is not limited to such conduct or adverse actions as:

- a. Adverse action taken to keep someone from opposing a discriminatory practice, or from participating in a discrimination proceeding;
- b. Employment actions such as termination, refusal to hire, and denial of promotion;
- c. Threats, unjustified negative evaluations, unjustified negative references, or increased surveillance;
- d. Action such as an assault or unfounded civil or criminal charges that are likely to deter reasonable people from pursuing their rights; or
- e. An unfair or unjustified grade.

Note that petty slights and annoyances, such as stray negative comments in an otherwise positive or neutral evaluation, snubbing a colleague, or negative comments that are justified by an employee's or student's poor work/academic performance or history are not considered adverse actions.

H. Applicability and Sanctions:

All students and employees are subject to this policy. Any student or employee who violates this policy is subject to discipline up to and including termination and/or expulsion in accordance with the *NMSU Policy Manual* or in the case of students, the *NMSU Student Code of Conduct*. Complaints may also be filed against visitors, consultants, independent contractors and outside vendors whose conduct violates these policies, with the possible sanctions of limiting access to campus facilities and other measures to protect the campus community.

I. Policy Statement Distribution:

1. The President's policy statement references the University's position as contained in this policy.

All employees will be provided the President's policy statement on an annual basis. Human Resource Services (HRS) and the Office of Institutional Equity (OIE) will maintain documentation (written or electronic) that each employee received the President's policy statement. New employees will be provided a copy of the President's policy statement at the time of hire, generally at New Employee Orientation (NEO) and documentation will be maintained by HRS. Additionally, the President's policy statement will be provided to students at least annually. The distribution and receipt documentation may be accomplished electronically for either employees or students. The complete text of this policy will be maintained on the OIE website: <http://eeo.nmsu.edu/>

J. Complaints and Investigation:

1. Employees and students may file an internal discrimination complaint with OIE within fifteen (15)

working days from the date of the incident(s). Individuals may use the NMSU Internal Discrimination Complaint Form to submit their complaint. The use of this form facilitates the gathering of information that is necessary to assess the complaint. The OIE Executive Director (or designee) may extend the filing date of a complaint beyond the fifteen (15) working days if there are extenuating circumstances.

2. OIE will provide the option to the complainant of pursuing their complaint through an informal (which may include mediation) or formal process (submittal of the complaint). The formal internal discrimination complaint will be subject to an initial review to determine if the complaint will proceed to the investigation. If the initial review finds that the complaint will not be accepted for investigation, the OIE Executive Director (or designee) will inform the complainant in writing of the decision. The complainant may appeal the decision in writing to the Executive Vice President and Provost (or designee) within five (5) working days of receipt of the notification letter.

3. If the internal discrimination complaint is accepted, the accused individual(s) will be provided a copy of the complaint and will be extended five (5) working days to provide a written response to OIE. OIE shall initiate the process to investigate the complaint. This process includes interviewing the complainant, respondent, potential witnesses and the gathering of any related documents.

4. All individuals are required to cooperate with any investigation in response to allegations of discrimination. Refusal to cooperate in an investigation may result in disciplinary action in accordance with university policy or student code of conduct. The completion of the investigation will be within sixty (60) days of initiation unless there are extenuating circumstances. A report of inquiry will be generated by the investigator and forwarded to the Executive Vice President and Provost. Within fifteen (15) days of receipt, the Executive Vice President and Provost (or designee) will review the report and render a decision in writing to the OIE Executive Director. The standard of evidence used for internal discrimination investigations is the “preponderance of the evidence”. Preponderance of the evidence means the greater weight of the evidence. The OIE Executive Director (or designee) will transmit the Executive Vice President and Provost’s (or designee) decision in writing to the complainant, the accused and appropriate administrators. The completion of the decision transmittal exhausts the internal process available under this policy for employees, students and others or may file complaints.

5. Penalties: Cases for students who are found to have violated the *NMSU Student Code of Conduct* and/or *NMSU Policy Manual* will be referred to Assistant Dean of Students. Cases for employees who are found to have violated *NMSU Policy Manual* will be referred to Human Resource Services/Employee and Management Services. Sanctions for students may include action up to and including expulsion. Sanctions for employees may include employment action up to and including termination in accordance with provisions of the *NMSU Policy Manual*.

#### K. General Information

1. Supervisors: If anyone in a supervisory, managerial, administrative or executive role or position, such as a supervisor, department chair, or director of a unit, receives a complaint of alleged discrimination or sexual harassment, or observes or becomes aware of conduct that may constitute discrimination or sexual harassment, that person must immediately contact OIE.

2. Employees: An employee who believes that he or she has been subjected to discrimination or sexual harassment by anyone is encouraged, but it is not required, particularly if it may be

confrontational, to promptly tell the person that the conduct is unwelcome and ask the person to stop the conduct. An employee is not required to do this before filing a complaint. A person who receives such a request must immediately comply with it and must not retaliate against the employee. If the employee feels uncomfortable about discussing the incident with the immediate supervisor, the employee should feel free to bypass the supervisor and file a complaint with OIE.

3. Students: A student who believes that he or she has been subjected to discrimination or sexual harassment by anyone is encouraged, but it is not required particularly if it may be confrontational, to promptly tell the person that the conduct is unwelcome and ask the person to stop the conduct. A student is not required to do this before filing a complaint. A person who receives such a request must immediately comply with it and must not retaliate against the student. If the student feels uncomfortable about discussing the incident with the faculty member, department head, dean or director of an administrative unit, the student should feel free to bypass the person and file a complaint with OIE.

4. When discriminatory conduct involves a crime of violence or a non-forcible sex offense, FERPA permits NMSU to disclose to the alleged victim the name of the alleged perpetrator, any violation found to have been committed and any sanction imposed). In the event a student is found to have engaged in sexual harassment of another student, NMSU will disclose to the student who was harassed, information about the sanction imposed on the student when the sanction directly relates to the harassed student.

5. Internal NMSU Units: Internal units such as the Dean of Students Office, Housing and Campus Life, Athletics and community colleges will promptly contact and consult with OIE when knowledge is obtained relating to potential discrimination or sexual harassment.

6. Non-employees and non-students: Individuals who are neither NMSU employees nor NMSU students and who believe they have been subjected to discrimination or sexual harassment by an NMSU employee during the employee's work hours or by a NMSU student on campus or at a NMSU-sponsored event may utilize the complaint process set forth above.

#### L. Prompt Attention:

Complaints of discrimination or sexual harassment are taken seriously and will be dealt with promptly, impartially, and equitably. Where discrimination is found to have occurred, NMSU will act to stop the reported conduct, to prevent its recurrence, to remedy its effects, if any, and to discipline those responsible.

#### M. Confidentiality:

NMSU recognizes that confidentiality is important. However, confidentiality cannot be guaranteed. The administrators, faculty or staff responsible for implementing this policy will respect the privacy of individuals reporting or accused of discrimination or sexual harassment to the extent reasonably possible and will maintain confidentiality to the extent possible. Examples of situations where confidentiality cannot be maintained include, but are not limited to, necessary disclosures during an investigation, circumstances where the NMSU is required by law to disclose information (such as in response to legal process), or when an individual is in harm's way.

To the extent provided by law and university policy, documents concerning a discrimination investigation and investigative results are not subject to public disclosure. Investigative materials and

documents contain matters of opinion related to the working relationship between NMSU and its employees. Documents protected by the Family Educational Rights and Privacy Act (FERPA), Privacy Act of 1974, the New Mexico Inspection of Public Records Act, etc. are not subject to disclosure.

#### N. Supervisor Responsibilities:

1. Every supervisor (includes faculty in academic setting) has responsibility to take reasonable steps to prevent acts of discrimination or sexual harassment, which include, but are not limited to:
  - a. Monitoring the work and school environment for signs that discrimination or harassment may be occurring;
  - b. Refraining from participation in, or encouragement of actions that could be perceived as discrimination or harassment (verbal or otherwise);
  - c. Stopping any observed acts that may be considered discrimination or harassment, and taking appropriate steps to intervene, whether or not the involved individuals are within their line of supervision; and
  - d. Taking immediate action to minimize or eliminate the work and/or school contact among individuals where there has been a complaint of sexual harassment, pending the completion of the investigation.

If a supervisor (or faculty in academic setting) receives a complaint of alleged discrimination or sexual harassment, or observes or becomes aware of conduct that may constitute discrimination or sexual harassment, the supervisor (or faculty in academic setting) must immediately contact OIE. Failure to take the above action to prevent the occurrence of or stop known discrimination or harassment may be grounds for disciplinary action in accordance with provisions of the *NMSU Policy Manual*.

#### O. Relationship to Freedom of Expression:

NMSU is committed to the principles of free inquiry and free expression. Vigorous discussion and debate are fundamental rights and this policy is not intended to stifle teaching methods or freedom of expression. Discrimination or sexual harassment, however, is neither legally protected expression nor the proper exercise of academic freedom; it compromises the integrity of this institution, the tradition of intellectual freedom and the trust placed in the institution by its members.

#### **Sex Offenders**

In accordance to the Campus Sex Crimes Prevention Act of 2000, the University is providing a link to the State of New Mexico Sex Offender Registry. All sex offenders are required to register in the state of New Mexico and to provide notice of each institution of higher education in New Mexico at which the person is employed, carries a vocation or is a student. The registry, maintained by the State of New Mexico can be found at <http://www.nmsexoffender.dps.state.nm.us>. In addition to other legal requirements, any convicted sex offender who is a student or employee of NMSU is required to register with the NMSU Police Department, as well as make notification to either the Registrar's Office (if a student) or the department head of their employing department (if an employee), or both (if both a student and an employee). As of September 2, 2014, no known sex offenders lived on the NMSU campus based on a search of this database.

In addition to the above notice to the State of New Mexico, all sex offenders are required to deliver written notice of their status as a sex offender to the University's Police Department no later than three (3) business days prior to their enrollment in, employment with, volunteering at or residence in the

University. Such notification may be disseminated by the University to, and for the safety and well-being of, the University community, and may be considered by the University for enrollment and discipline purposes.

## **SECTION 3 - PROGRAMS**

### **SAFETY PROGRAMS**

The primary functions of the NMSU Police Department are law enforcement, criminal investigation, and emergency response. Integral to these are the crime prevention and public education programs the officers and crime prevention specialists teach on campus each year to help reduce the likelihood of crimes. These programs include:

- **Personal Self Defense and Fight Like A Girl:** learn and practice techniques that can help stop an attack in these programs
- **Pepper Spray:** learn to use pepper sprays for self defense
- **Active Shooter Response:** learn what to do if caught in an active shooter/killer incident
- **Operation Identification:** check out an engraver and learn how to mark and log down your valuable property
- **Traffic Safety Issues:** refresh on the rules of the road and how to avoid problems
- **Rape Awareness & Prevention:** learn about stranger, date, and acquaintance rape, and some ways to avoid situations common to rapes
- **Alcohol & Drug Awareness:** learn the effects of alcohol and drugs on the body, and the dangers they can pose
- **Dealing with Difficult People and Violence in the Workplace:** learn about the causes of workplace violence and how to reduce its likelihood
- **Emergency Preparedness and Community Emergency Response Team (CERT):** learn how to prepare for emergencies, help yourself, and help others
- **First Aid & CPR:** learn how to treat medical emergencies until help arrives
- **RAD Kids:** a safety program for young children

Programs are scheduled at the request of any on-campus and most off-campus groups or organizations. In addition, the Police Department works with others on campus (such as the Department of Housing and Residence Life) to design specific public education programs for the needs of each area. The NMSU Police Department also teaches segments of academic courses at the request of instructors and faculty. Courses are tailored for each audience, and range in length from 15 minutes to 8 hours. Further information, including a list of currently scheduled courses, how to request a course, descriptions of the courses, or discussion of specific needs is available by contacting the NMSU Police Department at 646-3311. Additional information regarding safety can also be found at [www.nmsupolice.com](http://www.nmsupolice.com) and [safety.nmsu.edu](http://safety.nmsu.edu).

People interested in the activities of the NMSU Police Department can find regular news reports on local radio and television stations, as well as articles in the local newspapers. The campus also submits its crime statistics to the U.S. Department of Justice's Uniform Crime Reports.

### **TIPS TO PREVENT CRIME**

The following are some things each person can do to reduce chances of becoming a victim of a crime:

- Mark or engrave all valuables (including textbooks), and keep a record of these in a safe place. Include their make, model, and serial numbers whenever possible.
- If there are problems with your room that may affect security (such as doors that don't lock well or windows that open easily), let your RA or property manager know immediately.
- Register your bicycle with the NMSU Police Department and always secure it to a bike rack on campus with a quality lock.
- Lock the doors and windows to your room and your vehicle every time you leave. Do not leave valuables where they can be easily seen by someone passing by, even if it is just for a few minutes.
- Always be aware of your surroundings and of any strangers near you. If someone is acting suspiciously, move away toward large groups and well lit areas.
- Don't leave valuables unattended in unlocked lockers, study areas, or classrooms.
- Alcohol and drug use can reduce your ability to recognize a dangerous situation and your ability to defend yourself. If you are going to drink alcohol, do it legally, responsibly, in a safe place, and with people you can trust.

In addition to the tips above, additional information can be found on the NMSU Police Department website ([www.nmsupolice.com](http://www.nmsupolice.com)), or by contacting the Crime Prevention Office at 646-3311.

### **DRUGS AND ALCOHOL**

Use of alcohol is a concern with many high school and college students. While the average age of students attending NMSU Carlsbad is over 21 years old, there are still a large percentage of students and visitors below the age of 21 (the minimum age for consumption of alcohol in New Mexico). Alcohol is strictly prohibited for those below 21, and abuse of alcohol by anyone (to include use in unauthorized areas) is prohibited. Anyone selling or giving alcohol to a minor is guilty of a 4<sup>th</sup> degree felony in New Mexico. The Student Judicial Affairs Office will also charge students who violate university policies and state laws, with penalties ranging from mandatory education programs up to and including expulsion from NMSU.

In addition to alcohol, illegal drug abuse (to include prescription drug abuse) is a concern on college campuses. Possession, sale, or use of any prohibited substance may result in criminal charges and administrative sanctions, up to and including expulsion from NMSU. Violations of federal and state

controlled substance laws are investigated by the NMSU Police Department and referred for prosecution. The Police Department also participates in a regional task force with the US Drug Enforcement Agency to address controlled substance violations.

For those wanting to know more about the effects of alcohol and drugs, as well as issues like sexual assault, the WAVE (Wellness, Alcohol, and Violence Education) peer educator program is available to offer assistance. Counseling services are also available for those with substance abuse problems, and there are flyers and other information regarding drug and alcohol abuse available through a variety of locations on campus. Also, there are several academic courses related to drugs and alcohol offered each semester for those wanting to gain in-depth knowledge while also earning college credits. These courses can also be a great start for those wanting to pursue careers helping others with substance abuse problems.

### **OTHER SERVICES AVAILABLE**

New Mexico State University Carlsbad offers counseling services free of charge to students at the NMSU Carlsbad Counseling Center. The NMSU Counseling Center staff is comprised of well-trained professionals and can help students with a wide range of problems. Students interested should call the NMSU Carlsbad Counseling Center at 234-9337.

For education about sexual assault and misconduct, policy development, and victims' assistance issues, NMSU has given responsibilities to several departments and offices. Students with concerns or needing specific information are encouraged to contact the Vice President of Student Services for the NMSU Carlsbad campus. NMSU works specifically toward the goal of reducing the incidence of sexual crimes and providing better services for those victimized. Special assistance for victims in changing academic and living arrangements is available through the Dean of Students.

Additional services exist throughout the community to deal with special problems. Students may contact the Counseling Department with their needs for referral to the appropriate people or organizations.

## **SECTION 4 – CRIME STATISTICS**

### **Past 3 Years of Crime Statistics**

The NMSU Board of Regents, the NMSU Carlsbad administration, and the NMSU Police Department strongly discourage any conduct that is illegal or that violates the rights of another individual. This specifically includes laws concerning possession, use, and sale of alcohol and illegal drugs. NMSU Carlsbad may take both administrative (student judicial and/or personnel) and criminal action against individuals and organizations found to be violating federal, state or university laws or policies regarding alcohol or drugs. Various drug or alcohol abuse education programs are sponsored by NMSU's Police Department, the Vice President for Student Affairs Office, and the Human Resources Office. The NMSU Police Department makes every effort to assist victims of crimes through the Police Department's Victim Services Office and to prosecute those responsible. The complete NMSU policies on alcohol use, drug use, prohibited activities, restrictive access, and crime can also be found at <http://nmsu.edu/manual/policies-and-procedures.html>.

The NMSU Police Department is responsible for the investigation of all crimes that take place on university premises, which includes the filing of appropriate police reports and filing of annual reports and statistics. However, other agencies have concurrent jurisdiction in many cases. The NMSU Police Department takes efforts to encourage any other agency taking a report to notify the university so the incident can be reflected in the annual crime reports. While there has been a history of excellent cooperation and data sharing among local law enforcement agencies in Doña Ana County, the cooperation from federal agencies in sharing this type of data is not as strong, due in large part to secrecy requirements by those agencies. However, as these agencies generally do not investigate crimes reported herein, this data is believed to be complete.

Statistics on the following crimes and offenses are reported in the annual security report:

**Criminal Homicide:** Murder, non-negligent, and negligent manslaughter. Murder/non-negligent manslaughter is the willful (non-negligent) killing of one human being by another. Negligent manslaughter is the killing of another person through gross negligence.

**Sex Offenses, Forcible or Non-forcible:** A forcible sex offense is any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against that person's will where the victim is incapable of giving consent. Non-forcible sex offenses are acts of unlawful, non-forcible sexual intercourse. While the crimes of rape, incest, and statutory rape have been included in this area for many years, changes in the definitions used in the Clery Act now that went into effect on March 1, 2014 now also include fondling.

**Robbery:** The taking, or attempting to take anything of value from the care, custody or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

**Aggravated Assault:** The unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This offense is usually accompanied by the use of a weapon or by means likely to produce death or great bodily harm.

**Burglary:** The unlawful entry of a structure with the intent to commit a felony or theft.

**Arson:** Willful or malicious burning or attempt to burn with or without intent to defraud a dwelling house, public building, motor vehicle or aircraft, or personal property of another, etc.

**Motor Vehicle Theft:** The theft or attempted theft of a motor vehicle. There are three classes of motor vehicles: (1) autos, (2) trucks and buses, (3) and other vehicles.

#### **On-campus Arrests for Alcohol, Drug and Illegal Weapon Violations**

**The number of students referred for Campus Disciplinary Actions for alcohol, drug or illegal weapon violations:** These statistics are individuals referred for disciplinary proceedings in the Dean of Students Office or Residence Life & Student Housing.

**Hate Crimes falling into the above list, involving bodily injury:** Hate crimes are reported by category of prejudice: race, religion, gender, gender identity, sexual orientation, ethnicity, national origin or disability. The hate crimes include the following offenses: murder, rape, larceny/theft, assault, intimidation, property destruction, damage or vandalism.

#### **Definitions of Clery Act Locations (General)**

**“On-Campus”** is defined as any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution’s educational purposes, including residence halls. This also includes any building or property that is within or reasonably contiguous to the geographic area that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

**“Dorms/Residential Facilities”** for students on campus is a **subset** of the **“On-Campus”** category.

\*\* Crimes reported in the Residential Facilities column are also included in the On-Campus Category.

**“Non-Campus”** is defined as any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution’s educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution. This also includes any building or property owned or controlled by a student organization that is officially recognized by the institution.

**“Public Property”** is defined as all public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

The previous 3 years of crime statistics:

<b>Offense</b>	<b>Year</b>	<b>On-Campus Property</b>	<b>On-Campus Total</b>	<b>Non-Campus Property</b>	<b>Public Property</b>
<i>Murder/Non-Negligent Manslaughter</i>	2013	0	0	0	0
	2012	0	0	0	0
	2011	0	0	0	0
<i>Negligent Manslaughter</i>	2013	0	0	0	0
	2012	0	0	0	0
	2011	0	0	0	0
<i>Sex Offenses, Forcible (Rape)</i>	2013				
	2012	0	0	0	0
	2011	0	0	0	0
<i>Sex Offenses, Non-Forcible</i>	2013				
	2012	0	0	0	0
	2011	0	0	0	0
<i>Fondling</i>	2013	0	0	0	0
<i>Incest</i>	2013	0	0	0	0
<i>Statutory Rape</i>	2013	0	0	0	0
<i>Domestic Violence</i>	2013	0	0	0	0
<i>Dating Violence</i>	2013	0	0	0	0
<i>Stalking</i>	2013	0	0	0	0
<i>Robbery</i>	2013				
	2012	0	0	0	0
	2011	0	0	0	0
<i>Aggravated Assault</i>	2013				
	2012	1	1	0	0
	2011	0	0	0	0
<i>Burglary</i>	2013				
	2012	1	1	0	0
	2011	1	1	0	0
<i>Motor Vehicle Theft</i>	2013				
	2012	0	0	0	0
	2011	0	0	0	0
<i>Arson</i>	2013				
	2012	0	0	0	0
	2011	0	0	0	0

Hate Crimes 2013: 2 (Prejudice Category: Sexual Orientation. Incident Type: Larceny (1) Destruction of Property (1))

Hate Crimes 2012: 1 (Prejudice Category: Sexual Orientation. Incident Type: Simple Assault (1))

Hate Crimes 2011: 1 (Prejudice Category: Race. Incident Type: Simple Assault (1))



## **OFF-CAMPUS CRIME**

Crime occurring off campus involving students or chartered NMSU organizations is reported to and handled by a variety of agencies, including the Las Cruces Police Department, the Doña Ana County Sheriff's Department, or other local, state, or federal law enforcement agencies having jurisdiction. While the NMSU Police Department assists other agencies when asked pursuant to mutual aid agreements, the reporting and tracking of crime is done by the agency of primary jurisdiction. The university does not routinely monitor nor track incidents that are on private property or public property not owned by NMSU. Anyone wanting specific information on off-campus crime should contact the appropriate agency(s). See the Phone Number Reference Guide on the last page of this report for contact information.

## **WE NEED YOUR HELP – REPORT CRIME!**

Please help us in deterring crime on our campus by promptly calling the Police Department at 646-3311 or 911 (in case of emergencies) to report suspicious activity, safety problems, or crimes. In accordance with state law, the NMSU Police Department cannot accept anonymous reports, and must disclose certain information to prosecutors and defense counsel. However, it will take steps in sensitive cases to keep personal information confidential to the extent possible. This includes cases of sexual assault, as well as cases where there is a concern of possible retaliation. The NMSU Police Department also encourages 3<sup>rd</sup> party reports from non-NMSU counselors, pastors, and other mental health practitioners.

## **RESPONSIBILITY FOR POLICY MONITORING AND ENFORCEMENT**

The university has assigned responsibility for monitoring the above policies to the Police Department. If violations of policy are found to have occurred, the violations are referred to the President's Office for enforcement.

## **LEGAL DEFINITIONS**

Rape is generally defined as forced sexual penetration of the body of another. It may also include situations where the victim is incapable of giving consent due to incapacitation by means of disability or alcohol or other drugs. In New Mexico, the term "rape" is not used in statute. Instead, the term is "criminal sexual penetration". Many rapes are committed by someone the victim knows, such as a date or friend. Under New Mexico Law, criminal sexual penetration is defined as follows:

### **30-9-11 . Criminal sexual penetration.**

- A. Criminal sexual penetration is the unlawful and intentional causing of a person to engage in sexual intercourse, cunnilingus, fellatio or anal intercourse or the causing of penetration, to any extent and with any object, of the genital or anal openings of another, whether or not there is any emission.
- B. Criminal sexual penetration does not include medically indicated procedures.
- C. Aggravated criminal sexual penetration consists of all criminal sexual penetration perpetrated on a child under thirteen years of age with an intent to kill or with a depraved mind regardless of human life. Whoever commits aggravated criminal sexual penetration is guilty of a first degree felony for aggravated criminal sexual penetration.
- D. Criminal sexual penetration in the first degree consists of all criminal sexual penetration perpetrated:
  - (1) on a child under thirteen years of age; or
  - (2) by the use of force or coercion that results in great bodily harm or great mental anguish to the victim.Whoever commits criminal sexual penetration in the first degree is guilty of a first degree felony.

E. Criminal sexual penetration in the second degree consists of all criminal sexual penetration perpetrated:

- (1) by the use of force or coercion on a child thirteen to eighteen years of age;
- (2) on an inmate confined in a correctional facility or jail when the perpetrator is in a position of authority over the inmate;
- (3) by the use of force or coercion that results in personal injury to the victim;
- (4) by the use of force or coercion when the perpetrator is aided or abetted by one or more persons;
- (5) in the commission of any other felony; or
- (6) when the perpetrator is armed with a deadly weapon.

Whoever commits criminal sexual penetration in the second degree is guilty of a second degree felony.

Whoever commits criminal sexual penetration in the second degree when the victim is a child who is thirteen to eighteen years of age is guilty of a second degree felony for a sexual offense against a child and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a minimum term of imprisonment of three years, which shall not be suspended or deferred. The imposition of a minimum, mandatory term of imprisonment pursuant to the provisions of this subsection shall not be interpreted to preclude the imposition of sentencing enhancements pursuant to the provisions of the Criminal Sentencing Act [31-18-12 NMSA 1978].

F. Criminal sexual penetration in the third degree consists of all criminal sexual penetration perpetrated through the use of force or coercion not otherwise specified in this section.

Whoever commits criminal sexual penetration in the third degree is guilty of a third degree felony.

G. Criminal sexual penetration in the fourth degree consists of all criminal sexual penetration:

- (1) not defined in Subsections D through F of this section perpetrated on a child thirteen to sixteen years of age when the perpetrator is at least eighteen years of age and is at least four years older than the child and not the spouse of that child; or
- (2) perpetrated on a child thirteen to eighteen years of age when the perpetrator, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school health service provider or a school volunteer, and who is at least eighteen years of age and is at least four years older than the child and not the spouse of that child, learns while performing services in or for a school that the child is a student in a school.

Whoever commits criminal sexual penetration in the fourth degree is guilty of a fourth degree felony.

### ***Other Sexual Offenses***

Besides Criminal sexual penetration, other sexual offenses include the following:

#### **30-9-12 . Criminal sexual contact.**

A. Criminal sexual contact is the unlawful and intentional touching of or application of force, without consent, to the unclothed intimate parts of another who has reached his eighteenth birthday, or intentionally causing another who has reached his eighteenth birthday to touch one's intimate parts.

B. Criminal sexual contact does not include touching by a psychotherapist on his patient that is:

- (1) inadvertent;
- (2) casual social contact not intended to be sexual in nature; or

(3) generally recognized by mental health professionals as being a legitimate element of psychotherapy.

- C. Criminal sexual contact in the fourth degree consists of all criminal sexual contact perpetrated:
- (1) by the use of force or coercion that results in personal injury to the victim;
  - (2) by the use of force or coercion when the perpetrator is aided or abetted by one or more persons; or
  - (3) when the perpetrator is armed with a deadly weapon.

Whoever commits criminal sexual contact in the fourth degree is guilty of a fourth degree felony.

D. Criminal sexual contact is a misdemeanor when perpetrated with the use of force or coercion.

E. For the purposes of this section, "intimate parts" means the primary genital area, groin, buttocks, anus or breast.

**30-9-13 . Criminal sexual contact of a minor.**

A. Criminal sexual contact of a minor is the unlawful and intentional touching of or applying force to the intimate parts of a minor or the unlawful and intentional causing of a minor to touch one's intimate parts. For the purposes of this section, "intimate parts" means the primary genital area, groin, buttocks, anus or breast.

B. Criminal sexual contact of a minor in the second degree consists of all criminal sexual contact of the unclothed intimate parts of a minor perpetrated:

- (1) on a child under thirteen years of age; or
- (2) on a child thirteen to eighteen years of age when:
  - (a) the perpetrator is in a position of authority over the child and uses that authority to coerce the child to submit;
  - (b) the perpetrator uses force or coercion that results in personal injury to the child;
  - (c) the perpetrator uses force or coercion and is aided or abetted by one or more persons; or
  - (d) the perpetrator is armed with a deadly weapon.

Whoever commits criminal sexual contact of a minor in the second degree is guilty of a second degree felony for a sexual offense against a child and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a minimum term of imprisonment of three years, which shall not be suspended or deferred. The imposition of a minimum, mandatory term of imprisonment pursuant to the provisions of this subsection shall not be interpreted to preclude the imposition of sentencing enhancements pursuant to the provisions of Sections 31-18-17, 31-18-25 and 31-18-26 NMSA 1978.

C. Criminal sexual contact of a minor in the third degree consists of all criminal sexual contact of a minor perpetrated:

- (1) on a child under thirteen years of age; or
- (2) on a child thirteen to eighteen years of age when:
  - (a) the perpetrator is in a position of authority over the child and uses this authority to coerce the child to submit;
  - (b) the perpetrator uses force or coercion which results in personal injury to the child;
  - (c) the perpetrator uses force or coercion and is aided or abetted by one or more persons; or
  - (d) the perpetrator is armed with a deadly weapon.

Whoever commits criminal sexual contact of a minor in the third degree is guilty of a third degree felony for a sexual offense against a child.

- D. Criminal sexual contact of a minor in the fourth degree consists of all criminal sexual contact:
- (1) not defined in Subsection C of this section, of a child thirteen to eighteen years of age perpetrated with force or coercion; or
  - (2) of a minor perpetrated on a child thirteen to eighteen years of age when the perpetrator, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school health service provider or a school volunteer, and who is at least eighteen years of age and is at least four years older than the child and not the spouse of that child, learns while performing services in or for a school that the child is a student in a school.

Whoever commits criminal sexual contact in the fourth degree is guilty of a fourth degree felony.

**30-9-14 . Indecent exposure.**

- A. Indecent exposure consists of a person knowingly and intentionally exposing his primary genital area to public view.
- B. As used in this section, "primary genital area" means the mons pubis, penis, testicles, mons veneris, vulva or vagina.
- C. Whoever commits indecent exposure is guilty of a misdemeanor.
- D. In addition to any punishment provided pursuant to the provisions of this section, the court shall order a person convicted for committing indecent exposure to participate in and complete a program of professional counseling at his own expense.

**30-9-14.3 . Aggravated indecent exposure.**

- A. Aggravated indecent exposure consists of a person knowingly and intentionally exposing his primary genital area to public view in a lewd and lascivious manner, with the intent to threaten or intimidate another person, while committing one or more of the following acts or criminal offenses:
- (1) exposure to a child less than eighteen years of age;
  - (2) assault, as provided in Section 30-3-1 NMSA 1978;
  - (3) aggravated assault, as provided in Section 30-3-2 NMSA 1978;
  - (4) assault with intent to commit a violent felony, as provided in Section 30-3-3 NMSA 1978;
  - (5) battery, as provided in Section 30-3-4 NMSA 1978;
  - (6) aggravated battery, as provided in Section 30-3-5 NMSA 1978;
  - (7) criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978; or
  - (8) abuse of a child, as provided in Section 30-6-1 NMSA 1978.
- B. As used in this section, "primary genital area" means the mons pubis, penis, testicles, mons veneris, vulva or vagina.
- C. Whoever commits aggravated indecent exposure is guilty of a fourth degree felony.

D. In addition to any punishment provided pursuant to the provisions of this section, the court shall order a person convicted for committing aggravated indecent exposure to participate in and complete a program of professional counseling at his own expense.

**30-9-20 . Voyeurism prohibited; penalties.**

A. Voyeurism consists of intentionally using the unaided eye to view or intentionally using an instrumentality to view, photograph, videotape, film, webcast or record the intimate areas of another person without the knowledge and consent of that person:

- (1) while the person is in the interior of a bedroom, bathroom, changing room, fitting room, dressing room or tanning booth or the interior of any other area in which the person has a reasonable expectation of privacy; or
- (2) under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.

B. Whoever commits voyeurism is guilty of a misdemeanor, except if the victim is less than eighteen years of age, the offender is guilty of a fourth degree felony.

C. As used in this section:

- (1) "intimate areas" means the primary genital area, groin, buttocks, anus or breasts or the undergarments that cover those areas; and
- (2) "instrumentality" means a periscope, telescope, binoculars, camcorder, computer, motion picture camera, digital camera, telephone camera, photographic camera or electronic device of any type.

**30-37-2 . Offenses; books; pictures.**

It is unlawful for a person to knowingly sell, deliver, distribute, display for sale or provide to a minor, or knowingly to possess with intent to sell, deliver, distribute, display for sale or provide to a minor:

A. any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body, or any replica, article or device having the appearance of either male or female genitals which depicts nudity, sexual conduct, sexual excitement or sado-masochistic abuse and which is harmful to minors; or

B. any book, pamphlet, magazine, printed matter however produced or sound recording which contains any matter enumerated in Subsection A of this section or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sado-masochistic abuse and which, taken as a whole, is harmful to minors.

**30-37-3.2 . Child solicitation by electronic communication device.**

A. Child solicitation by electronic communication device consists of a person knowingly and intentionally soliciting a child under sixteen years of age, by means of an electronic communication device, to engage in sexual intercourse, sexual contact or in a sexual or obscene performance, or to engage in any other sexual conduct when the perpetrator is at least four years older than the child.

B. Whoever commits child solicitation by electronic communication device is guilty of a:

- (1) fourth degree felony if the child is at least thirteen but under sixteen years of age; or
- (2) third degree felony if the child is under thirteen years of age.

C. Whoever commits child solicitation by electronic communication device and also appears for, attends or is present at a meeting that the person arranged pursuant to the solicitation is guilty of a:

- (1) third degree felony if the child is at least thirteen but under sixteen years of age; or
- (2) second degree felony if the child is under thirteen years of age.

D. In a prosecution for child solicitation by electronic communication device, it is not a defense that the intended victim of the defendant was a peace officer posing as a child under sixteen years of age.

E. For purposes of determining jurisdiction, child solicitation by electronic communication device is committed in this state if an electronic communication device transmission either originates or is received in this state.

F. As used in this section, "electronic communication device" means a computer, video recorder, digital camera, fax machine, telephone, cellular telephone, pager, audio equipment or any other device that can produce an electronically generated image, message or signal.

History: Laws 1998, ch. 64, § 1; 2005, ch. 295, § 1; 2007, ch. 68, § 3.

### **30-37-1 . Definitions.**

As used in this act:

A. "minor" means any unmarried person who has not reached his eighteenth birthday;

B. "nudity" means the showing of the male or female genitals, pubic area or buttocks with less than a full opaque covering, or the depiction of covered male genitals in a discernibly turgid state;

C. "sexual conduct" means act of masturbation, homosexuality, sodomy, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person be female, breast;

D. "sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal;

E. "sado-masochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained;

F. "harmful to minors" means that quality of any description of representation, in whatever form, of nudity, sexual conduct, sexual excitement or sado-masochistic abuse, when it:

- (1) predominantly appeals to the prurient, shameful or morbid interest of minors; and
- (2) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
- (3) is utterly without redeeming social importance for minors; and

G. "knowingly" means having general knowledge of, or reason to know, or a belief or reasonable ground for belief which warrants further inspection or inquiry or both, of:

- (1) the character and content of any material described herein, which is reasonably susceptible of examination by the defendant;
- (2) the age of the minor.

The complete State of New Mexico rape and sexual assault offenses, definitions and penalties can be found in New Mexico State Statutes 30-9-1 through 20. Additionally, New Mexico State Statute 30-6A-1

through 4 provides definitions of the crime of Sexual Exploitation of Children.

### **Domestic Violence, Dating Violence and stalking**

The New Mexico State Statutes relating to domestic violence, dating violence and stalking are as follows;

#### **30-3-11 . Definitions.**

As used in the Crimes Against Household Members Act:

A. "household member" means a spouse, former spouse, parent, present or former stepparent, present or former parent in-law, grandparent, grandparent-in-law, a co-parent of a child or a person with whom a person has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member for the purposes of the Crimes Against Household Members Act; and

B. "continuing personal relationship" means a dating or intimate relationship.

#### **30-3-12 . Assault against a household member.**

A. Assault against a household member consists of:

- (1) an attempt to commit a battery against a household member; or
- (2) any unlawful act, threat or menacing conduct that causes a household member to reasonably believe that he is in danger of receiving an immediate battery.

B. Whoever commits assault against a household member is guilty of a petty misdemeanor.

#### **30-3-13 . Aggravated assault against a household member.**

A. Aggravated assault against a household member consists of:

- (1) unlawfully assaulting or striking at a household member with a deadly weapon; or
- (2) willfully and intentionally assaulting a household member with intent to commit any felony.

B. Whoever commits aggravated assault against a household member is guilty of a fourth degree felony.

#### **30-3-14 . Assault against a household member with intent to commit a violent felony.**

A. Assault against a household member with intent to commit a violent felony consists of any person assaulting a household member with intent to kill or commit any murder, mayhem, criminal sexual penetration in the first, second or third degree, robbery, kidnapping, false imprisonment or burglary.

B. Whoever commits assault against a household member with intent to commit a violent felony is guilty of a third degree felony.

#### **30-3-15 . Battery against a household member.**

A. Battery against a household member consists of the unlawful, intentional touching or application of force to the person of a household member, when done in a rude, insolent or angry manner.

B. Whoever commits battery against a household member is guilty of a misdemeanor.

C. Upon conviction pursuant to this section, an offender shall be required to participate in and complete a domestic violence offender treatment or intervention program approved by the children, youth and families department pursuant to rules promulgated by the department that define the criteria for such programs.

D. Notwithstanding any provision of law to the contrary, if a sentence imposed pursuant to this section is suspended or deferred in whole or in part, the period of probation may extend beyond three hundred sixty-four days but may not exceed two years. If an offender violates a condition of probation, the court may impose any sentence that the court could originally have imposed and credit shall not be given for time served by the offender on probation; provided that the total period of incarceration shall not exceed three hundred sixty-four days and the combined period of incarceration and probation shall not exceed two years.

**30-3-16 . Aggravated battery against a household member.**

A. Aggravated battery against a household member consists of the unlawful touching or application of force to the person of a household member with intent to injure that person or another.

B. Whoever commits aggravated battery against a household member by inflicting an injury to that person that is not likely to cause death or great bodily harm, but that does cause painful temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the body, is guilty of a misdemeanor.

C. Whoever commits aggravated battery against a household member by inflicting great bodily harm or doing so with a deadly weapon or doing so in any manner whereby great bodily harm or death can be inflicted is guilty of a third degree felony.

D. Upon conviction pursuant to Subsection B of this section, an offender shall be required to participate in and complete a domestic violence offender treatment or intervention program approved by the children, youth and families department pursuant to rules promulgated by the department that define the criteria for such programs.

E. Notwithstanding any provision of law to the contrary, if a sentence imposed pursuant to the provisions of Subsection B of this section is suspended or deferred in whole or in part, the period of probation may extend beyond three hundred sixty-four days but may not exceed two years. If an offender violates a condition of probation, the court may impose any sentence that the court could originally have imposed and credit shall not be given for time served by the offender on probation; provided that the total period of incarceration shall not exceed three hundred sixty-four days and the combined period of incarceration and probation shall not exceed two years.

**30-3-17 . Multiple convictions of battery or aggravated battery.**

A. Whoever commits three offenses of battery against a household member as provided in Section 30-3-15 NMSA 1978 or aggravated battery against a household member as provided in Subsection B of Section 30-3-16 NMSA 1978, or any combination thereof, when the household member is a spouse, a former spouse, a co-parent of a child or a person with whom the offender has had a continuing personal relationship is guilty of a fourth degree felony.

B. Whoever commits four or more offenses of battery against a household member as provided in Section 30-3-15 NMSA 1978 or aggravated battery against a household member as provided in

Subsection B of Section 30-3-16 NMSA 1978, or any combination thereof, when the household member is a spouse, a former spouse, a co-parent of a child or a person with whom the offender has had a continuing personal relationship is guilty of a third degree felony.

C. For the purpose of determining the number of offenses committed, each offense must have been committed after conviction for the preceding offense.

**30-3-18 . Criminal damage to property of household member; deprivation of property of household member.**

A. Criminal damage to the property of a household member consists of intentionally damaging real, personal, community or jointly owned property of a household member with the intent to intimidate, threaten or harass that household member.

B. Whoever commits criminal damage to the property of a household member is guilty of a misdemeanor, except that when the damage to the household member's interest in the property amounts to more than one thousand dollars (\$1,000), the offender is guilty of a fourth degree felony.

C. Deprivation of the property of a household member consists of intentionally depriving a household member of the use of separate, community or jointly owned personal property of the household member with the intent to intimidate or threaten that household member.

D. Whoever commits deprivation of the property of a household member is guilty of a misdemeanor.

**30-3A-2 . Harassment; penalties.**

A. Harassment consists of knowingly pursuing a pattern of conduct that is intended to annoy, seriously alarm or terrorize another person and that serves no lawful purpose. The conduct must be such that it would cause a reasonable person to suffer substantial emotional distress.

B. Whoever commits harassment is guilty of a misdemeanor.

**30-3A-3 . Stalking; penalties.**

A. Stalking consists of knowingly pursuing a pattern of conduct, without lawful authority, directed at a specific individual when the person intends that the pattern of conduct would place the individual in reasonable apprehension of death, bodily harm, sexual assault, confinement or restraint of the individual or another individual.

B. As used in this section:

- (1) "lawful authority" means within the scope of lawful employment or constitutionally protected activity; and
- (2) "pattern of conduct" means two or more acts, on more than one occasion, in which the alleged stalker by any action, method, device or means, directly, indirectly or through third parties, follows, monitors, surveils, threatens or communicates to or about a person.

C. Whoever commits stalking is guilty of a misdemeanor. Upon a second or subsequent conviction, the offender is guilty of a fourth degree felony.

D. In addition to any punishment provided pursuant to the provisions of this section, the court shall order a person convicted of stalking to participate in and complete a program of professional counseling at the person's own expense or a domestic violence offender treatment or intervention program.

**30-3A-3.1 . Aggravated stalking; penalties.**

A. Aggravated stalking consists of stalking perpetrated by a person:

- (1) who knowingly violates a permanent or temporary order of protection issued by a court, except that mutual violations of such orders may constitute a defense to aggravated stalking;
- (2) in violation of a court order setting conditions of release and bond;
- (3) when the person is in possession of a deadly weapon; or
- (4) when the victim is less than sixteen years of age.

B. Whoever commits aggravated stalking is guilty of a fourth degree felony. Upon a second or subsequent conviction, the offender is guilty of a third degree felony.

C. In addition to any punishment provided pursuant to the provisions of this section, the court shall order a person convicted of aggravated stalking to participate in and complete a program of professional counseling at his own expense.

**30-3A-4 . Exceptions.**

The provisions of the [Harassment and] Stalking Act [30-3A-1 NMSA 1978] do not apply to:

- A. picketing or public demonstrations that are lawful or that arise out of a bona fide labor dispute; or
- B. a peace officer in the performance of his duties.

## **SECTION 5 - PHONE NUMBER REFERENCE GUIDE**

Carlsbad Police Department	<b>EMERGENCY..... 911</b> Non-emergency.....885-2111
NMSU Vice President Student Service.....	234-9220
NMSU Student Health Center.....	234- 9291
NMSU Counseling Center.....	234-9337
NMSU Title IX Coordinator.....	646-3635
NMSU Office of Institutional Equity.....	646-3635
WAVE Program.....	646-2813

### **Off-Campus Law Enforcement Agencies:**

NMSU Police Department.....	575-646-3311
Eddy County Sheriff's Office.....	575-887-7551
Carlsbad Police Department.....	575-885-2111
New Mexico State Police.....	575-524-6111
Federal Bureau of Investigation.....	575-526-2351
Drug Enforcement Administration.....	575-526-0700
US Marshals Service.....	575-527-6850
US Customs and Border Protection.....	575-528-6600